THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte RICHARD D. NORDLOF

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Appeal No. 97-1365
Application 08/295,427[1]

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ON BRIEF

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Before CALVERT, ABRAMS, and PATE, ***Administrative Patent Judges***.

PATE, ***Administrative Patent Judge***.

[1] Application for patent filed August 25, 1994.

DECISION ON APPEAL

This is an appeal from the examiner's refusal to allow claims 1 through 6 as amended after final rejection. Claim 7, the other claim remaining in the application, has been indicated by the examiner as allowed.

The claimed invention is directed to a roll type stock feed apparatus for intermittently advancing a strip stock into a power press having a ram which vertically reciprocates through a ram cycle. The feed apparatus is arranged to release feed pressure on the stock during a portion of each press cycle so that pilot pins can enter pilot holes in the strip stock to position the stock properly before the pressing operation. Appellant accomplishes this feed pressure release by provision of a ram position sensor means 71 which is actuated by an actuator affixed to the ram. As the ram position sensor member is reciprocated downwardly in response to the ram's cam downward movement surface 83 on the sensor position member cams bell crank lever 85 which raises the roll carrier arm 25 thereby raising feed roller 23 with respect to the stock.

The references of record relied upon as evidence of obviousness are:[2]

Imai	3,530,753	Sep. 29, 1970
Nordlof	5,033,342	Jul. 23, 1991

[2] The Examiner's Answer includes several references neither cited nor applied against appellant's claims in the Examiner's Answer. Therefore we include as references cited only the reference that have been cited, applied, or discussed in the Examiner's Answer.

Appellant, in his Brief, states that the claims do not stand or fall together and includes reasons and arguments therefor in his Brief.

The examiner has rejected claims 1 through 6 as rejected under 35 U.S.C. § 103 as unpatentable over Imai in view of Nordlof. According to the examiner, Imai discloses a stationary frame structure, a first feed roll 11 mounted on the first roll axis, a roll carrier means 18, a second feed roll 13 mounted on the roll carrier means 18, and pressure applying means 20 yieldably urging roll carrier means 18. The examiner further states that the roll carrier includes an elongated ram position sensor means 39 with a first cam means and a second cam means which includes cam follower 37 engageable with the cam surface on member 39. The examiner states that Imai does not disclose an electro-responsive servomotor means and does not disclose a sensor activating means mounted on the ram. However, it is the view of the examiner that Nordlof teaches using an electro-responsive servomotor means and a sensor actuating means 102a that is mounted on ram 11 for reciprocation with the ram 11 into and out of engagement with the upwardly facing abutment on the ram position sensor means 101. Therefore, the examiner concludes that it would have been obvious to have modified the roll type stock feed apparatus of Imai with an electro-responsive servomotor means and sensor actuating means as taught by Nordlof in order to drive the stock feed rolls during the feed cycle while sensing the position of the ram.

Opinion

We are in agreement with the examiner that Imai discloses a roll type stock feed apparatus including rollers 13 and 11. We further agree that member 18 of Imai can be construed as a roll carrier. Spring 20 of Imai comprises the pressure applying means which yieldably urges the roll carrier 18 of Imai into stock feed position. However, Imai, as admitted by the examiner, does not disclose an elongated ram position sensor member slidably mounted on the stationary frame structure for lengthwise reciprocation along an upright path and having an upwardly facing abutment. Nordlof shows member 101b which senses the position of the ram via the actuator member 102a and is slidably mounted for reciprocation along an upright path. Moreover, the member 101b also has an abutment upwardly facing as claimed in appellant's claims. However, in Nordlof, the roll carrier means is reciprocated by means of pneumatic piston 71 and no interengaging cam means is provided for moving the roll carrier means in response to movement of the ram position sensor member.

In our view, if the suggestion or teaching of Nordlof were combined with the teachings of Imai, the teaching of Nordlof is to remove the mechanical camming of Imai entirely and to go to a pneumatically controlled servo system. This servo system would be used to move the roll carrier means 18 of Imai just as Nordlof teaches moving 36, his roller carrier means in his patent. In other words, while the combined teachings of the Nordlof and Imai disclosures do result in the elongated ram position sensor member

slidably mounted in the frame structure for lengthwise reciprocation along an upright path and having upwardly facing abutment, the teachings do not result in a roll carrier actuating means with a first and second cam means.

The examiner acknowledges that Imai does not show a ram position sensor means mounted on the stationary frame and that there are no means urging the member 39 upwardly relative to the stationary frame structure, just as there is no structure for stopping upward movement of the member 39 in a raised position on the stationary frame structure. This is because member 39 of Imai is mounted on the ram and not on the stationary frame structure. This being the case, it is clear that the examiner's reconstruction of Imai is not based on any teaching from the Nordlof and Imai patents taken as a whole, but is based on a hindsight reconstruction resulting from the purview of appellant's disclosure. It is clear that Imai's member 39 cannot be construed as a ram position sensor member. Therefore the only ram position sensor member taught by the references is an electronic or electrical one wherein no cam means is used. "Here the examiner relied on hindsight to arrive at the determination of obviousness. It is presumed permissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior so that the claimed invention is rendered obvious." ***In re Fritch***, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784, (citing ***In re Gorman***, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991)). As the Federal Circuit has previously stated "one cannot use hindsight

reconstruction to pick and choose among the isolated disclosures in the prior art to deprecate the claimed invention." ***Id.*** (quoting ***In re Fine***, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988)).

For this reason, the rejection of claims 1 through 6 on appeal is reversed.

REVERSED

Ian A. Calvert Administrative Patent Judge	)
Neal E. Abrams Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
William F. Pate, III Administrative Patent Judge	)

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